

from the other for the following reasons:

Invention I is related to the Inventions of II-IV as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the polypeptides of the invention I can be used in a materially different process such as generating antibodies or in any one of the methods of inventions II-IV for example.

The methods of inventions II, III and IV are related in that each method requires the use of the peptide of invention I. However, the steps and end points of the methods are wholly different and therefore inventions II-IV are patentably distinct.

The office has also stated that each of inventions I through IV are directed to patentably distinct and/or independent peptides (or use thereof); and that each different peptide sequence is considered distinct and/or independent one from another on the basis of physical, chemical and biological properties and functions. Thus an election under 35 USC 121 is required as to the elected peptide (by SEQ ID NO).

In response to the requirement for restriction, Applicant elects to prosecute, without traverse, the invention of Group I, claims 1-18 & 27-31. Please cancel claims 19-26 from this application without prejudice.

#### CONCLUSION

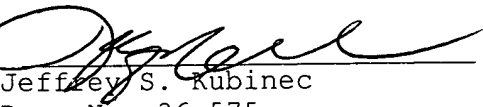
Applicants respectfully request that the foregoing remarks be considered and entered in the file history of the above-identified application. It is submitted that the claims are now in condition for allowance. It is therefore earnestly solicited that such a final favorable disposition is made. The Examiner is

invited to telephone Jeffrey S. Kubinec, (Reg. No. 36,575) at  
(650)225-8228 if deemed helpful to clarify and advance  
prosecution.

Respectfully submitted,  
GENENTECH, INC.

Date: December 13, 2002

By:

  
Jeffrey S. Kubinec

Reg. No. 36,575

Telephone No. (650)225-8228



09157

PATENT TRADEMARK OFFICE